

**To:** Beaver, Melinda[Beaver.Melinda@epa.gov]; Werner, Christopher[Werner.Christopher@epa.gov]  
**From:** Casso, Ruben  
**Sent:** Tue 6/20/2017 5:51:07 PM  
**Subject:** AIR POLLUTION: Court nixes enviros' bid to keep moving in Wyo. haze case

## **AIR POLLUTION: Court nixes enviros' bid to keep moving in Wyo. haze case**

Sean Reilly, E&E News reporter

Published: Tuesday, June 20, 2017



A federal appeals court turned down a bid by environmental groups to lift a stay on a challenge to a Wyoming haze rule that could affect plants like the Laramie River Station. Basin Electric Power Cooperative

A federal appellate court has again rebuffed environmental groups that want to keep forging ahead with a legal challenge to U.S. EPA's regional haze reduction plan for Wyoming.

In a ruling yesterday, a two-judge panel on the 10th U.S. Circuit Court of Appeals turned down the bid by the Powder River Basin Resource Council and two national environmental groups seeking to lift a stay on their share of the consolidated litigation over the 2014 plan. The court had imposed the stay last month to allow a settlement with another challenger, the Basin Electric Power Cooperative, to take effect (Greenwire, May 18).

The Powder River council and the other groups, arguing that the deal's implementation could take two years, had asked the court to meanwhile let them proceed separately with their suit. But they hit a wall of opposition from EPA and the state of Wyoming, as well as power producers Basin Electric and PacifiCorp, which contend that the rival lawsuits are so entangled in overlapping issues that they can't be split up.

EPA's regional haze program, dating back to 1999 in its current form, sets a goal of restoring pristine

views to 156 national parks and wilderness areas by 2064.

Environmentalists say that the 2014 Wyoming plan doesn't go far enough in cutting pollution from coal-fired power plants and oil and gas industry operations; the state, allied with Oregon-based PacifiCorp and Basin Electric, based in North Dakota, counter that it goes overboard.

In yesterday's ruling, the two-judge panel said it had carefully considered the environmental groups' motion, but otherwise offered no explanation for the decision.

"We're still evaluating our options," Jenny Harbine, an Earthjustice attorney representing the groups, said in a brief interview when asked whether they would continue to pursue the bid.

The litigation, which dates back to 2014, had already been slowed by the amount of time needed to reach the Basin Electric settlement. Early last year, the court had rejected a previous attempt by the same three organizations, which include the National Parks Conservation Association and the Sierra Club, to move ahead separately.

In a filing last week, the groups wrote that EPA, the state and the power producers had failed to provide "any legitimate basis" for denying their motion for separate treatment.